



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 31, 1993

Ms. Kathleen Henley
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR93-771

Dear Ms. Henley:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23016.

The McAllen Police Department (the "department") received an open records request for its case file pertaining to the arrest of a particular juvenile. You contend the requested records come under the protection of former sections 3(a)(1) and 3(a)(8) of the Open Records Act (now found at sections 552.101 and 552.108, respectively, of the Government Code).

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 51.14(d) of the Family Code, as amended by Acts 1993, 73d Leg., ch. 461, § 3, at 1852, 1854, provides:

Except as provided by Article 15.27, Code of Criminal Procedure, and except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records [pertaining to juveniles] are not open to public inspection nor may

¹The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

their contents be disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for *a party to the proceeding*; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.

(Emphasis added.)

Section 51.14(d) lists the persons and entities who may gain access to juvenile records; this section does not authorize a law-enforcement official to release these documents in the official's discretion to any other person. In contrast, other subsections in section 51.14 allow other persons "with a legitimate interest" to inspect other juvenile records "with leave of the juvenile court." See Fam. Code §§ 51.14(a)(4), (b)(4). Although the Attorney General has held that a law-enforcement agency does not violate section 51.14(d) by releasing general statistical law-enforcement data which provides no real opportunity for identification of the juvenile, see Attorney General Opinion H-529 (1975) at 4, a law-enforcement agency may release detailed reports of alleged delinquent conduct only in accordance with section 51.14(d) of the Family Code. Open Records Decision No. 181 (1977) at 2.

Section 51.14(d)(2) specifically provides that "an attorney for a party to the proceeding" under chapter 51 of the Family Code has a special right of access to juvenile records. In this instance, the individual requesting the juvenile records is an attorney representing the juvenile who is the subject of the requested records. However, because the juvenile in question has yet to be formally charged with an offense under the provisions of the Family Code, this office cannot conclude that the juvenile is a "party" to a "proceeding" under chapter 51. Accordingly, the department may not release these records to the requestor at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/RWP/rho

Ref.: ID# 23016

Enclosures: Submitted documents

cc: Mr. Carlos Quintana
1302 First City Tower
McAllen, Texas 78501
(w/o enclosures)